communication, or that knowledge of its contents would in the ordinary course of business be acquired by a third party. Accordingly the mere writing of a letter by the defendant and sending of it to the plaintiff only, does not constitute publication, *Penry v. Dozier,* 49 So. (Ala.) 909. But where it may reasonably be expected that an open communication, as a post card, will be seen and read by third parties, there the sending is of itself evidence of a publishing. This is agreed upon by English and American courts. G. Swinfen Eady, L. J., in the principal case, quoting *Sadgrove v. Hole,* 2 K. B. 1, 70 L. J. K. B. 455. *Logan v. Hodges,* 146 N. C. 38; 59 S. E. 349. The principal case, however, goes on to draw a distinction in regard to the unclosed envelope, considering it more nearly analogous to the sealed letter than to the postal card. This reasoning would seem open to question, especially in view of the modern postal distinction between sealed and unsealed matter. If there were not the implication that unsealed letters were likely to be read, as in the case of post cards, there would be no reason for paying first-class mail matter rates to obtain the privacy resulting from sealing.

C. B.

LICENSES—ORDINANCES—CONSTRUCTION.—MCDONALD V. CITY OF PARAGOULD, 179 S. W. (ARK.) 335.—*Held,* an ordinance requiring the payment of a license fee by operators of vehicles "for transportation of passengers within the city limits" does not apply to the transportation of passengers from points within to points outside the city, and vice versa. Kirby, J., *dissenting.*

In construing similar acts, courts have held they do not apply to vehicles *passing through* the city, or affect those who haul goods from another city wherein they are licensed. *Bennett v. Borough of Birmingham,* 31 Pa. St. 15; *City of East St. Louis v. Bux,* 43 Ill. App. 276. But that part of the business carried on within the municipality is taxable. *Morristown-Madison Auto Bus Co. v. Borough of Madison,* 85 N. J. L. 59 (dictum). Such a tax was held valid against those who came to the city in wagons every day and sold goods therein. *Wonner v. City of Cartersville,* 125 S. W. (Mo.) 861. On facts precisely similar to those of the principal case, other courts have reached a contrary conclusion. *City of Cartersville v. Blytone,* 141 S. W. (Mo.) 701; *City of Sacramento v. The California Stage Co.,* 12 Cal. 134. There seems to be a direct conflict in the cases on the point involved, the decisions depending on those extrinsic facts upon which the court lays stress. The courts which emphasize the inadvisability of double taxation construe these statutes strictly; the others, looking to the reason for the imposition of the tax (use of city streets, etc.), construe them more liberally.

L. S.

LIFE ESTATES—INJURY BY STRANGER—EXTENT AND GROUND OF RECOVERY. —ROGERS V. ATLANTIC G. & P. CO., 107 N. E. (N. Y.) 661.—*Held,* life tenant may recover for injury by negligence of a stranger not only to the life estate but also to the remainder, on the theory of trusteeship.

A number of states allow the life tenant to bring trespass, and the reversioner to bring case. *Burnett v. Thompson,* 51 N. C. 210; *Bentonville*

R. R. v. Baker, 45 Ark. 252; *Lane v. Thompson,* 43 N. H. 320. Some allow them to join in an action for damages to their separate estates. *McIntire v. Westmoreland Coal Co.,* 118 Pa. St. 108; *R. R. v. Boyer,* 13 Pa. St. 497. But the life tenant may only recover for damages to life estate. *Brown v. Woodliff,* 89 Ga. 413. And neither can recover damages covering the entire injury to both estates. *Jordan v. City of Benwood,* 42 W. Va. 312; *Zimmerman v. Shreeve,* 59 Md. 357. The principal case seems to have gone further than any case, and is in conflict with the last two cases cited. However, the analogy which the case draws with the rights of a bailee against third parties, where the bailee is not liable to the bailor, seems to be sound, and that rule is well applicable to the state of facts under consideration.

L. S.

TORTS—CONSPIRACY AS IMPARTING TORTIOUS CHARACTER TO OTHERWISE INNOCENT ACTS.—CORNELLIER V. HAVERHILL SHOE MFRS. ASS'N. ET AL., 109 N. E. (MASS.) 643.—In determining the tortious character of picketing incident to a strike, *held,* that an act lawful when done by one, may be rendered unlawful by the fact of being done by many in coöperation.

The fact of conspiracy in the sense of preconcerted agreement cannot of itself impart a tortious character to harmful acts otherwise legal. *Bilafsky v. Ins. Co.,* 192 Mass. 504. Nor does the mere magnitude of the harm done, resulting from the increased number of perpetrators, create a tort out of what would otherwise be *damnum absque injuria. Gregory v. Brunswick,* 13 L. J. R., C. Pl. 34 (hooting at theatre). Cases of boycott should be distinguished from the principal case, their tortious character depending upon the successful infliction of the intended harm, and not upon the numbers engaged except as a means of accomplishing such infliction. *Quinn v. Leathem,* L. R. (1901) A. C. 495, 538. Numbers may, however, alter the legal character of the means employed to attain an end which might by one or a few be accomplished by the same means with impunity. *Vegelahn v. Gunter,* 167 Mass. 92 ("moral intimidation" imparted by the force of numbers engaged in picketing). Thus numerous injunctions have issued against acts not threatening physical injury or temporal loss, but involving merely "social pressure" and "organized persuasion." *Plant v. Woods,* 176 Mass. 492; *Murdock v. Walker,* 152 Penn. St. 595; *Ry. Co. v. Ruef,* 120 Fed. (Neb.) 102, 121. *Contra, People v. Radt,* 15 N. Y. Cr. Rep. 429. For an elaboration of the doctrine of the principal case see *Martell v. White,* 185 Mass. 255, 260.

C. R. W.

TRIAL—VERDICT—JOINT DEFENDANTS—APPORTIONMENT OF DAMAGES—SURPLUSAGE.—RATHBONE V. DETROIT UNITED RY. ET AL., 154 N. W. (MICH.) 143.—*Held,* that in an action against joint defendants, a verdict which assessed a sum total against both jointly, and then attempted to apportion the same, was defective, and such apportionment could not be regarded as surplusage. Bird, J., *dissenting.*

Damages cannot be assessed severally against joint defendants. *Marriott v. Williams,* 152 Cal. 705; *St. Louis Ry. v. Thompson,* 102 Tex. 89;